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10 *J and J Purchasing LLC, The Judd Irrevocable Trust,*  
*and BJ Holdings LLC*

11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF NEVADA**

13 SECURITIES AND EXCHANGE COMMISSION,

14 Plaintiff,

15 vs.

16 MATTHEW WADE BEASLEY; BEASLEY LAW  
17 GROUP PC; JEFFREY J. JUDD; CHRISTOPHER  
18 R. HUMPHRIES; J&J CONSULTING SERVICES,  
INC., an Alaska Corporation; J&J CONSULTING  
19 SERVICE, INC., a Nevada Corporation; J AND J  
PURCHASING LLC; SHANE M. JAGER; JASON  
20 M. JONGEWARD; DENNY SEYBERT; and  
ROLAND TANNER,

21 Defendants,

22 THE JUDD IRREVOCABLE TRUST; PAJ  
23 CONSULTING INC; BJ HOLDINGS LLC;  
STIRLING CONSULTING, LLC.; CJ  
24 INVESTMENTS, LLC; ROCKING HORSE  
PROPERTIES, LLC; TRIPLE THREAT  
25 BASKETBALL, LLC; ACAC LLC; ANTHONY  
MICHAEL ALBERTO, JR., and MONTY CREW  
26 LLC;

27 Relief Defendants.  
28

CASE NO. 2:22-cv-00612-JCM-EJY

**[HEARING REQUESTED]**

**MOTION TO COMPEL OR  
ALTERNATIVE MOTION FOR  
ORDER TO SHOW CAUSE WHY  
JEFFREY J. JUDD AND/OR THOSE  
ACTING ON HIS BEHALF SHOULD  
NOT BE HELD IN CONTEMPT FOR  
FAILURE TO COMPLY WITH THIS  
COURT'S ORDER APPOINTING  
RECEIVER DUE TO FAILURE TO  
TURN OVER ASSETS**

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Comes now, Geoff Winkler, the Court-appointed Receiver (the "Receiver") for J&J Consulting Services, Inc., an Alaska corporation; J&J Consulting Services, Inc., a Nevada corporation; J and J Purchasing LLC; The Judd Irrevocable Trust; and BJ Holdings LLC, and over the Wells Fargo Interest on Lawyers' Trust Account ending in 5598 and held in the name of Beasley Law Group PC, along with the personal assets of Matthew Wade Beasley; Jeffrey J. Judd; Christopher R. Humphries; Shane M. Jager; Jason M. Jongeward; Denny Seybert; and Roland Tanner (collectively, the "Receivership Defendants"), by and through the Receiver's proposed counsel of record, the law firm of Greenberg Traurig, LLP, and hereby submits the following Motion to Compel or Alternative Motion for Order to Show Cause Why Jeffrey J. Judd and/or those Acting on His Behalf Should not be Held in Contempt for Failure to Comply with this Court's Order Appointing Receiver (ECF No. 88) Due to Failure to Turn Over Assets ("Motion").

This Motion is based upon the attached Memorandum of Points and Authorities, the exhibits hereto including the Declarations of Geoff Winkler and Joshua A. del Castillo, the pleadings and papers on file herein, and such other and further arguments and evidence as may be presented to the Court in connection with the Motion.

Respectfully submitted this 10<sup>th</sup> day of June 2022

GREENBERG TRAURIG, LLP

By: /s/ Kara B. Hendricks

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**CERTIFICATION OF EFFORTS TO CONFER PRIOR TO FILING**

The Receiver and his proposed counsel have conferred with Kevin Anderson, counsel for Jeffery Judd, in good faith attempts to resolve the disputes raised in this Motion without the need for Court intervention. After a sincere effort to do so, including a video conference, telephone call and email/written correspondence, the parties have been unable to resolve the matter without court action, necessitating the instant Motion. See Declaration of Geoff Winkler attached hereto as **Exhibit A** and Declaration of Joshua A. del Castillo attached hereto as **Exhibit B**.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Through this Motion, the Receiver requests an Order to Compel or an Order to Show Cause why Jeffrey J. Judd (“Judd”) and/or those acting on his behalf should not be held in civil contempt for failure to immediately turn over to the Receiver assets as required by this Court’s June 3, 2022 Order Appointing Receiver (ECF No. 88) (the “Appointment Order”). As discussed herein, the Appointment Order expressly calls for the turnover of, among other items, the funds currently held by counsel in connection with the representation of Judd or any other Receivership Defendant as well as personal property. Based on available information, the Receiver believes that at least \$8,050,000 in receivership property is being held by various attorneys that purport to represent Judd.<sup>1</sup> These funds should be immediately turned over to the Receiver pursuant to the Appointment Order, and include:

<b>FIRM</b>	<b>AMOUNT BELIEVED TO BE HELD BY FIRM</b>
Fabian & Clendenin, PC dba Fabian VanCott	\$750,000
Law Offices of Michael L. Peters, Esq.	\$2,750,000
Law Offices of Camille Dean, P.C.	\$250,000
Oberheiden, P.C.	\$2,800,000
John W. Sellers, Esq.	\$1,500,000
<b>TOTAL</b>	<b>\$8,050,000</b>

<sup>1</sup> The Receiver has reached out to the law firms and attorneys believed to be holding additional funds on behalf of Mr. Judd and has requested the turnover of the same. The Receiver is hopeful the funds will be turned over voluntarily without the need for Court intervention.

Kevin Anderson of the Fabian VanCott Firm has acknowledged the existence of such funds that were received directly from Judd.<sup>2</sup> However, Mr. Anderson has refused to turn over funds held by the Fabian VanCott Firm, claiming that the Appointment Order is unclear as to its turnover requirements, and contending that the funds are needed to pay attorneys to represent Judd, pay for Judd's necessary and reasonable living expenses and expressed concerns about the SEC's actions affecting Mr. Judd's "assets, livelihood, and pursuit of happiness". See, email correspondence from Mr. Anderson attached hereto as **Exhibit C**. In subsequent discussions, Mr. Anderson also maintained that he is not bound to comply with the turnover provisions of the Appointment Order on the grounds that the Appointment Order is allegedly incompatible with other orders of the Court and that the Appointment Order is not applicable to funds to be used in connections with Judd's legal representation in this case and/or other related matters. *Id.* and Exs.¶ A (Winkler Declaration) and B (del Castillo Declaration).

The Receiver respectfully submits that the Appointment Order is clear on its face, and that the requested turnover of funds is not merely required, but fundamental to the very purpose of the instant receivership. In that respect, it is the Receiver's obligation to identify and collect receivership assets, including funds held by the Receivership Defendants with their respective counsel. If and when a Receivership Defendant's counsel seeks payment for legal services, then they can apply to the Court for the release of the same. It is not, however, for the Receivership Defendants or their attorneys to unilaterally determine what qualifies as receivership assets or decide if, when, and how much they will turn over, or otherwise place conditions upon their compliance with the Appointment Order. Given the undeniable violation of the specific and definite order of this Court that the funds be turned over to the Receiver, an order to show cause should issue and a finding of civil contempt is warranted.

## II. RELEVANT FACTUAL BACKGROUND

On June 3, 2022, this Court entered the Appointment Order, Sections II and IV of which provide "[a]ll persons and entities having control, custody or possession of any Receivership Property are hereby directed to turn such property over to the Receiver" and "[t]he Receiver is authorized to

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<sup>2</sup> See, **Exhibit A** (Winkler Declaration at ¶ 7.)

1 take immediate control of all personal property of the Receivership Defendants[.]” ECF No. 88.  
 2 Section III of the Appointment Order further obligates individuals and entities in receipt of the  
 3 Appointment Order to “[c]ooperate expeditiously in providing information and transferring funds,  
 4 assets and accounts to the Receiver or at the direction of the Receiver.” *Id.*

5 On June 5, 2022, Kevin Anderson, Esq., counsel for Judd, sent email correspondence to the  
 6 Receiver in which he advised:

7 “The Court’s June 3, 2022 Order Appointing Receiver is not clear on its  
 8 effect on the Court’s April 21, 2022 Order Entering Preliminary Injunction,  
 9 Asset Freeze, and other Equitable Relief. Is the Receiver now in charge of  
 10 the use of funds for Mr. Judd’s attorneys’ fees and costs? The release of  
 11 funds held by attorneys to allow for representation of Mr. Judd needs to be  
 12 resolved immediately. Mr. Judd is entitled to legal representation in the  
 13 ongoing criminal investigations, the SEC’s civil enforcement case, and in  
 14 connection with any police or regulatory actions of the SEC not stayed by  
 15 the Court, as well as any other actions the Receiver may take, in consultation  
 16 with SEC counsel affecting Mr. Judd’s assets, livelihood, and ‘pursuit of  
 17 Happiness.’

18 Same question with regard to any allowance for necessary and reasonable  
 19 living expenses.”<sup>3</sup>

20 Ex. C.

21 On June 6, 2022, via video conference and in a subsequent telephone call, the Receiver and  
 22 his proposed counsel conferred with Mr. Anderson, who was already in receipt of the Appointment  
 23 Order, and requested the turnover of the funds in issue here.<sup>4</sup> Mr. Anderson acknowledged that his  
 24 firm, Fabian VanCott, is holding funds as a retainer, advance fee, or client trust account balance in  
 25 connection with its service as Judd’s counsel, which funds the Receiver presently understands total  
 26 at least \$750,000.00.<sup>5</sup> During the two June 6<sup>th</sup> discussions, Mr. Anderson indicated he did not agree  
 27 with the Receiver’s position that the Appointment Order required the turnover of funds to the  
 28 Receiver, and indicated that his firm would decline to turn over the funds in its possession, and might  
 petition the Court for further instructions, or otherwise take action to challenge the Receiver’s

<sup>3</sup> **Exhibit C**, June 5, 2022 Email Correspondence from Kevin N. Anderson.

<sup>4</sup> **Exhibit A** (Winkler Declaration ) at ¶ 5, and **Exhibit B** ( “del Castillo Declaration”) at ¶ 4.

<sup>5</sup> Ex. A at ¶ 7 and Ex. B at ¶ 6.

turnover request.<sup>6</sup> On June 7, 2022, the Receiver's proposed counsel sent a written demand for turnover.<sup>7</sup>

On the evening June 9, 2022, a response was provided by Mr. Anderson, a true and correct copy of which is attached hereto as **Exhibit E**. Therein, and among other things, Mr. Anderson reiterated his position that the terms of the Appointment Order were incompatible with procedures previously developed in this matter and did not compel the turnover of client trust funds absent a further order of the Court.<sup>8</sup> Proposed counsel for the Receiver responded to the same and reiterated the Receiver's position and interpretation of the Appointment Order, and sought to address the issues raised in Mr. Anderson's June 9, 2022 correspondence.<sup>9</sup> Additionally, Mr. Anderson was advised that because the parties were at an impasse, an appropriate motion would be forthcoming.<sup>10</sup>

### III. LEGAL ARGUMENT

An order compelling Judd and/or his agents to deliver accounts and assets to the Receiver is warranted. Additionally, the court has the ability to issue an order to show cause why the Appointment Order is not being followed. “Courts have inherent power to enforce compliance with their lawful orders through civil contempt.” *Shillitani v. United States*, 384 U.S. 364, 370 (1966). To hold a party in civil contempt, “the moving party has the burden of showing by clear and convincing evidence that the [nonmoving party] violated a specific and definite order of the court.” *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999) (quoting, *Stone v. City and County of San Francisco*, 968 F.2d 850, 856 n. 9 (9th Cir. 1992)); see also *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 695 (9th Cir. 1993) (“Civil contempt...consists of a part’s disobedience to a specific and definite court order by failure to take all reasonable steps within the party’s power to comply.”). In this context, “[c]lear and convincing evidence means evidence sufficient to support a finding of ‘high probability’”. *Waits v. Frito-Lay, Inc.*, 978 F.2d 1093, 1105 (9th Cir. 1992), *abrogated by Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118,

<sup>6</sup> Ex. A at ¶ 6 and Ex. B at ¶¶ 7 – 10.

<sup>7</sup> Ex. B at ¶ 11 and **Exhibit D** (June 7, 2022 Correspondence to Kevin Anderson).

<sup>8</sup> Ex. B, ¶ 12.

<sup>9</sup> *Id.* at ¶ 13 and **Exhibit F** attached hereto.

<sup>10</sup> *Id.*

1 134 S.Ct. 1377 (2014). Upon a demonstration that a specific and definite order was violated, “[t]he  
 2 burden then shifts to the contemnors to demonstrate why they were unable to comply.” *Affordable*  
 3 *Media*, 179 F.3d at 1239.<sup>11</sup>

4 When construing an order, the court shall look to the “natural reading of its text.” *Ruiz v.*  
 5 *Snohomish Cnty. Pub. Util. Dist. No. 1*, 824 F.3d 1161, 1167 (9th Cir. 2016). “If the judgment is  
 6 unambiguous, the court may not consider ‘extraneous’ evidence to explain it.” *Narramore v. United*  
 7 *States*, 852 F.2d 485, 490 (9th Cir. 1988) (internal citations omitted). Moreover, as the Ninth Circuit’s  
 8 holding in *F.T.C. v. Network Servs. Depot, Inc.*, 617 F.3d 1127 (9th Cir. 2010) recognizes, “[a]n  
 9 attorney is an ‘officer of the court’ who, by virtue of his or her professional position, undertakes  
 10 certain ‘special duties ... to avoid conduct that undermines the integrity of the adjudicative process.’”  
 11 *Network Servs.* at 1143, *see also S.E.C. v. Fujinaga and MRI Int’l, Inc.*, No. 2-13-cv-1658-JCM-  
 12 CWH, 2020 WL 3050713 at \*3 (D. Nev. June 8, 2020).

13 Here, the plain and natural language of the Appointment order is clear: “[a]ll persons and  
 14 entities having control, custody or possession of any Receivership Property are hereby directed to  
 15 turn such property over to the Receiver” and “[t]he Receiver is authorized to take immediate control  
 16 of all personal property of the Receivership Defendants[.]” ECF No. 88 at ¶¶ 15-22. Indeed, further  
 17 supporting the Receiver’s position is the fact that the Appointment Order expressly defines  
 18 “Receivership Property” as:

19 all property interests of the Receivership Defendants, including, but not  
 20 limited to, monies funds, securities, credits, effects, goods, chattels, lands,  
 21 premises, leases, claims, rights and other assets, together with all rents,  
 22 profits, dividends, interest or other income attributable thereto, of whatever  
 kind, the Receivership Defendants own, possess, have a beneficial interest  
 in, or control directly or indirectly. ECF No. 88 at ¶ 7(A).

23 Moreover, paragraphs 16 and 17 of the Appointment Order are clear in requiring persons  
 24 acting for or on behalf of the Receivership Defendants that have possession of receivership property

25  
 26 <sup>11</sup> The Ninth Circuit has found contempt sanctions are not warranted when a party’s action (or inaction)  
 27 “appears to be based on a good faith and reasonable interpretation” of the Court’s order. *Vertex Distrib., Inc.*  
 28 *v. Falcon Foam Plastics, Inc.*, 689 F.2d 885, 889 (9th Cir. 1982). Relevant to the instant application, Judd  
 has not demonstrated any good cause for their inaction and Judd’s position contradicts the clear terms of the  
 Application Order. Indeed, based on prior correspondence with Judd’s counsel, Judd appears to be operating  
 under the belief that the funds currently held by Fabian VanCott are excepted from the turnover provisions of  
 the Appointment Order solely because Mr. Judd is entitled to legal representation. *See Exhs. A-C.*



1 to deliver the same to the Receiver. Specifically, paragraph 16 provides that “any persons acting for  
 2 or on behalf of the Receivership Defendants, and any persons receiving notice of this Order ... having  
 3 possession of the property ... accounts or assets of the Receivership Defendants are hereby directed  
 4 to deliver the same to the Receiver.” *Id.* at ¶ 16. In other words, Paragraph 16 requires any non-  
 5 defendant third party holding assets of any Receivership Defendant (including the Individual  
 6 Defendants) to turn over those assets to the Receiver. Paragraph 17 then provides a series of  
 7 directives regarding the treatment of assets held by third parties, including cooperating “expeditiously  
 8 in providing information and transferring funds, assets and accounts to the Receiver[.]” *Id.* at ¶ 17.

9 There can be no good faith argument that the terms of the Appointment Order are vague or  
 10 ambiguous in any way with respect to funds transferred from Judd to Fabian VanCott—a fact admitted  
 11 by Mr. Anderson. Similarly, it is clear that Fabian VanCott is required to deliver the funds to the  
 12 Receiver. Thus, under the clear terms of the Appointment Order, any such funds are subject to the  
 13 turnover provisions of the Appointment Order and Judd and/or his counsel’s failure or refusal to  
 14 comply therewith warrants compelling the delivery of the funds to the Receiver and/or subjects Judd  
 15 and those acting on his behalf to civil contempt to enforce compliance with the Appointment Order.<sup>12</sup>  
 16 *See Shillitani*, 384 U.S. at 370. In an instance such as this, an attorney has an affirmative duty to act  
 17 in a manner that adheres to, and upholds, the terms of a court’s order. In fact, this Court has previously  
 18 found, in a situation strikingly similar to this, “[a]n attorney is an ‘officer of the court’ who, by virtue  
 19 of his or her professional position, undertakes certain ‘special duties ... to avoid conduct that  
 20 undermines the integrity of the adjudicative process.’” *S.E.C. v. Fujinaga and MRI Int’l, Inc.*, No. 2-  
 21 13-cv-1658-JCM-CWH, 2020 WL 3050713 at \*3 (D. Nev. June 8, 2020) (quoting, *F.T.C. v. Network*  
 22 *Servs. Depot, Inc.*, 617 F. 3d 1127 (9th Cir. 2010)). In *Fujinaga*, this Court considered whether funds  
 23 paid to a law firm by a relief defendant in an action to recover ponzi scheme funds were subject to  
 24 the terms of a temporary restraining order and preliminary injunction and emphasized the attorney’s  
 25 obligation to ensure compliance with a court’s order. *Fujinaga*, 2020 WL 3050713 at \*3. Ultimately,  
 26 the court found that the firm receiving the funds had an affirmative obligation to ensure those funds  
 27

28 <sup>12</sup> At this juncture it is not clear if the funds are be held by the Fabian VanCott firm at the request of Judd. Regardless, such funds must be provided to the Receiver.



were not subject to the terms of the court's order and by failing to do so, the firm was in contempt of the court's order. *Id.*

Applying the holding in *Fujinaga* to the instant matter, it is abundantly clear that by failing and/or refusing to turn over the funds in accordance with the Receiver's demand, Judd and/or the Fabian Vanott firm have willingly violated the terms of the Appointment Order and an order to show cause and finding of civil contempt is warranted. The mere fact that Mr. Judd is entitled to legal representation does not except the funds at issue from the Receiver's control—something Mr. Anderson and his firm had an affirmative obligation to consider. *See, Fujinaga*, 2020 WL 3050713 at \*3. Judd and/or his counsel's refusal to turn over said funds constitutes a willful violation of the specific and definite order of this Court. As such, an order compelling the delivery of funds Judd provided to Fabian VanCott to the Receiver is warranted. Alternatively, the Court should issue an order to show cause and absent good cause, a finding of civil contempt is warranted.

#### IV. CONCLUSION

For the foregoing reasons, the Receiver respectfully requests this Court enter an Order Compelling Delivery of funds to the Receiver or the issuance of a show cause order as to why Judd and/or those acting on his behalf should not be held in civil contempt for violating the Appointment Order.

DATED this 10th day of June, 2022.

GREENBERG TRAURIG, LLP

By: /s/ Kara B. Hendricks

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**CERTIFICATE OF SERVICE**

I hereby certify that on **June 10, 2022**, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive such service.

/s/ Evelyn Escobar-Gaddi  
An employee of GREENBERG TRAURIG, LLP

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